

§ 107.309

(3) Issue an order directing compliance, regardless of whether a warning letter has been issued or a civil penalty assessed; and

(4) Seek any other remedy available under the Federal hazardous material transportation law.

(b) In the case of a proceeding initiated for failure to comply with an exemption or special permit, the allegation of a violation of a term or condition thereof is considered by the Associate Administrator and the Office of Chief Counsel to constitute an allegation that the special permit holder or party to the special permit is failing, or has failed to comply with the underlying regulations from which relief was granted by the special permit.

[Amdt. 107-11, 48 FR 2651, Jan. 20, 1983, as amended by Amdt. 107-32, 59 FR 49131, Sept. 26, 1994; Amdt. 107-36, 61 FR 7183, Feb. 26, 1996; 66 FR 45377, Aug. 28, 2001; 70 FR 73162, Dec. 9, 2005]

§ 107.309 Warning letters.

(a) The Associate Administrator may issue a warning letter to any person whom the Associate Administrator believes to have committed a probable violation of the Federal hazardous material transportation law or any provision of this subchapter, subchapter C of this chapter, or any special permit issued thereunder.

(b) A warning letter issued under this section includes:

(1) A statement of the facts upon which the Associate Administrator bases its determination that the person has committed a probable violation;

(2) A statement that the recurrence of the probable violations cited may subject the person to enforcement action; and

(3) An opportunity to respond to the warning letter by submitting pertinent information or explanations concerning the probable violations cited therein.

[Amdt. 107-11, 48 FR 2651, Jan. 20, 1983, as amended by Amdt. 107-15, 51 FR 34986, Oct. 1, 1986; Amdt. 107-24, 56 FR 8621, Feb. 28, 1991; Amdt. 107-32, 59 FR 49131, Sept. 26, 1994; Amdt. 107-36, 61 FR 7183, Feb. 26, 1996; 66 FR 45377, Aug. 28, 2001]

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§ 107.310 Ticketing.

(a) For an alleged violation that does not have a direct or substantial impact on safety, the Associate Administrator may issue a ticket.

(b) The Associate Administrator issues a ticket by mailing it by certified or registered mail to the person alleged to have committed the violation. The ticket includes:

(1) A statement of the facts on which the Associate Administrator bases the conclusion that the person has committed the alleged violation;

(2) The maximum penalty provided for by statute, the proposed full penalty determined according to PHMSA's civil penalty guidelines and the statutory criteria for penalty assessment, and the ticket penalty amount; and

(3) A statement that within 45 days of receipt of the ticket, the person must pay the penalty in accordance with paragraph (d) of this section, make an informal response under § 107.317, or request a formal administrative hearing under § 107.319.

(c) If the person makes an informal response or requests a formal administrative hearing, the Associate Administrator forwards the inspection report, ticket and response to the Office of the Chief Counsel for processing under §§ 107.307-107.339, except that the Office of the Chief Counsel will not issue a Notice of Probable Violation under § 107.311. The Office of the Chief Counsel may impose a civil penalty that does not exceed the proposed full penalty set forth in the ticket.

(d) Payment of the ticket penalty amount must be made in accordance with the instructions on the ticket.

(e) If within 45 days of receiving the ticket the person does not pay the ticket amount, make an informal response, or request a formal administrative hearing, the person has waived the right to make an informal response or request a hearing, has admitted the violation and owes the ticket penalty amount to PHMSA.

[Amdt. 107-36, 61 FR 7183, Feb. 26, 1996, as amended at 66 FR 45377, Aug. 28, 2001]

§ 107.311 Notice of probable violation.

(a) The Office of Chief Counsel may serve a notice of probable violation on